

E-filed 3/28/08

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MEMRY CORPORATION,

Case No. C04-03843 RMW (HRL)

Plaintiff,

v.

**ORDER ON MOTIONS TO FILE
DOCUMENTS UNDER SEAL**

KENTUCKY OIL TECHNOLOGY, N.V.,
PETER BESSELINK, MEMORY METALS
HOLLAND, B.V.,

Defendants.

Re: Docket Nos. 232, 277, 395, 405, 498,
505, and 536

KENTUCKY OIL TECHNOLOGY, N.V.,

Counterclaimant,

v.

MEMRY CORPORATION and
SCHLUMBERGER TECHNOLOGY
CORPORATION,

Counterdefendants.

Pursuant to Local Rule 79-5 and 7-11, both parties moved to file certain documents under seal. The original motions did not contain the proper supporting declarations and the parties were ordered to show cause why those documents should not be made part of the public record. Based on the parties' responses, the court orders as follows:

Motion to File Under Seal: Docket No. 232

Counter-defendant Schlumberger Technology Corporation (STC) moved to file confidential exhibits to Docket No. 237 under seal.

Defendant Kentucky Oil Technology (KOT) withdrew its confidentiality designation as to Exhibits A, C, and D of Docket No. 237. These documents were then resubmitted electronically by KOT. However, as for Exhibit B to Docket No. 237, KOT has shown good cause for filing under seal. Non-Party Abbott Laboratories (Abbott) also responded to the court's Order to Show Cause. Abbott has sufficiently demonstrated good cause for filing Exhibits E and F to Docket No. 237 under seal.

Accordingly, the Motion [Docket No. 232] is GRANTED as to the following Exhibits to Docket No. 237: B (unredacted), E and F. The Clerk shall file the specified documents under seal. The motion is otherwise DENIED.

Motion to File Under Seal: Docket No. 277

KOT moved to file under seal confidential exhibits to Docket No. 275 and Docket No. 273 (Memorandum in Opposition to STC's Second Motion to Compel).

KOT withdrew its confidentiality designation as to the majority of Exhibits B and C to Docket No. 275. Redacted versions of these documents were resubmitted electronically by KOT, once its designation was withdrawn. However, as to the portions Exhibits B and C dealing with Dr. van Moorleghe's financial information, KOT has shown good cause for filing under seal. Non-Party Abbott has sufficiently demonstrated good cause for filing Exhibits D and E to Docket No. 275 under seal.

Accordingly, the Motion [Docket No. 277] is GRANTED as to the following:

1. Unredacted version of Exhibits B and C to Docket No. 275
2. Exhibits D and E to Docket No. 275

The Clerk shall file the specified documents under seal. The motion is otherwise DENIED. **By April 11, 2008, KOT shall electronically resubmit unredacted versions of Docket No. 273 and of Exhibit A to Docket No. 275.**

Motion to File Under Seal: Docket No. 395

STC moved to file exhibits A-Q and PP-TT to Docket No. 397 (Moyer Declaration in Support of STC's Motion to Compel) under seal.

KOT withdrew its confidentiality designation as to Exhibits A, C, F, G, H, I, J, M, N, O, Q, PP, QQ, and TT of Docket No. 397. These documents have been resubmitted electronically by KOT. Furthermore, KOT withdrew its confidentiality designation as to the majority of Exhibits B and E to Docket No. 397. Redacted versions of these documents were also resubmitted electronically by KOT. However, as to the portions Exhibits B and E dealing with Dr. van Moorleghe's financial information and Mr. Besselink's telephone number, KOT has shown good cause for filing under seal.

KOT has shown good cause for filing Exhibits K, L, P, RR, and SS of Docket No. 397 under seal. Non-Party Abbott has sufficiently demonstrated good cause for filing Exhibit D to Docket No. 397 under seal.

Accordingly, the Motion [Docket No. 395] is GRANTED as to the following Exhibits to Docket No. 397: B, D, E, K, L, P, RR, and SS. The Clerk shall file the specified documents under seal. The motion is otherwise DENIED.

Motion to File Under Seal: Docket No. 405

Memry Corporation moved to file exhibits 5, 7, and 12 to Docket No. 404 under seal.

KOT withdrew its confidentiality designation as to portions of Exhibits 7 and 12 to Docket No. 404. However, as to the portions Exhibits 7 and 12 dealing with the details of KOT's trade secrets or the financial terms of a KOT agreement, KOT has shown good cause for filing under seal. Redacted versions of these documents were then resubmitted electronically by KOT. As for Exhibit 5 to Docket No. 404, KOT has shown good cause for filing under seal.

Accordingly, the Motion [Docket No. 405] is GRANTED as to the following Exhibits to Docket No. 404: 5, 7 (unredacted), and 12 (unredacted). The Clerk shall file the specified documents under seal. The motion is otherwise DENIED.

Motion to File Under Seal: Docket No. 498

KOT moved to file under seal Docket Nos. 492, 488, 482, 493, 489, 483, and 486 (either portions thereof or in their entirety).

STC withdrew its confidentiality designation for Docket Nos. 492, 488, 482, 493 and 483. KOT electronically resubmitted the unredacted versions of the following documents: Docket No. 492 (KOT Motion to Compel re: STC's "Reasonable Beliefs"); Docket No. 488 (KOT Motion to Compel re: Shell's Intellectual Property); Docket No. 482 (KOT Motion to Compel re: 11/29/00 Memorandum); and, Exhibits D, E, F, G, and H to Docket No. 493.

STC shows good cause for filing under seal Exhibit C to Docket No. 486 and Exhibits D, E, G-Z, AA-RR, YY, ZZ, AAA, and BBB to Docket No. 489. (KOT also shows good cause for filing XX to Docket No. 489 under seal).

Accordingly, the Motion [Docket No. 498] is GRANTED as to the following:

1. Exhibit C to Docket No. 486
2. Exhibits D, E, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, BB, CC, DD, EE, FF, GG, HH, II, JJ, KK, LL, MM, NN, OO, PP, QQ, RR, XX, YY, ZZ, AAA, and BBB to Docket No. 489.

The Clerk shall file the specified documents under seal. The motion is otherwise DENIED. **By April 11, 2008, KOT shall resubmit an unredacted electronic version of Docket No. 483.**

Motion to File Under Seal: Docket No. 505

STC moved to file confidential exhibits to Docket No. 503 under seal.

KOT withdrew its confidentiality designation as to Exhibit A to Docket No. 503. This document was resubmitted electronically by KOT, once its designation was withdrawn. Non-Party Abbott has sufficiently demonstrated good cause for filing Exhibits C, D, E, F, and G to Docket No. 503 under seal.

Accordingly, the Motion [Docket No. 505] is GRANTED as to the following Exhibits to Docket No. 503: C, D, E, F, and G. The Clerk shall file the specified documents under seal. The motion is otherwise DENIED.

Motion to File Under Seal: Docket No. 536

STC moved to file confidential exhibits to Docket No. 542 under seal.

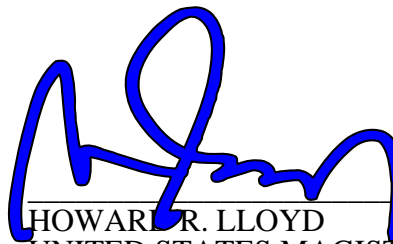
KOT withdrew its confidentiality designation as to portions of Exhibits BB and CC to Docket No. 542. However, as to the portions Exhibits BB and CC dealing with financial information for Dr. van Moorlegem and Mr. Shukov, KOT has shown good cause for filing under seal. Redacted versions of these documents have been resubmitted electronically by KOT. STC withdrew its confidentiality designation for Exhibits Z and AA to Docket No. 542 and electronically resubmitted those documents.

STC has shown good cause for filing Exhibits G, K, L, M, O, P, Q, R, T, and DD to Docket No. 542.

Accordingly, the Motion [Docket No. 536] is GRANTED as to the following Exhibits to Docket No. 542: BB (unredacted), CC (unredacted), G, K, L, M, O, P, Q, R, T, and DD. The Clerk shall file the specified documents under seal. The motion is otherwise DENIED.

IT IS SO ORDERED.

Dated: 3/28/08



HOWARD R. LLOYD
UNITED STATES MAGISTRATE JUDGE